IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Anil Kumar Maheshwari v. Distt.& Sessions Judge, Bhilwara & Ors.

S.B.CIVIL WRIT PETITION NO.3284/2001
under Article 226 of the Constitution of India.

Date of Order : 9th May, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahesh Bora, for the petitioner.
Mr. N.M.Lodha, Addl.Advocate General.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

BY THE COURT :

An application is preferred by the counsel for the petitioner to delete Shri Jagmohan Sharma (respondent No.3) from the array of the respondents. The same is allowed. Shri Jagmohan Sharma is deleted from the array of the respondents.

Heard. Admit.

With the consent of the counsel for the parties the writ petition is heard for final disposal.

This petition for writ is to expunge the adverse entries made in the Annual Performance Appraisal Report of the petitioner pertaining to the year 1996. The petitioner is holding the post of Lower Division Clerk in the Court of Civil Judge (Sr.Division) -cum- Additional Chief Judicial Magistrate, Shahpura, District Bhilwara. The District & Sessions Judge under a communication dated NIL bearing No.37/97 APA communicated adverse entries made in his Annual Performance Appraisal Report for the year 1996.

The petitioner being aggrieved by the same submitted a representation to the District & Sessions Judge, Bhilwara with the request to expunge the adverse entries referred above. The representation of the petitioner was rejected by the District & Sessions Judge, Bhilwara under an order dated 24.8.2000. The selection grade on completion of 9 years of service was also not allowed to the petitioner due to adverse entries referred above. Hence this petition is preferred by the petitioner.

This Court by order dated 12.4.2005 directed the respondents to produce ACR Dossier of the petitioner and also the record wherein the representation submitted by the petitioner was considered and decided by the competent authority. In

compliance of the same the record concerned is produced before the Court by Shri Girish Kumar Pandey, Special Judge, SC/ST Cases Court, Bhilwara.

From perusal of record it appears that adverse entries entered in the Annual Performance Appraisal Report of the petitioner for the year 1996 are the solitary adverse entries in entire service career of the petitioner. It is also pertinent to note that the reporting officer in the year 1996 also in general found performance of the petitioner as satisfactory. The reporting officer in part-I of the Annual Performance Appraisal Report specifically observed that the petitioner is working in criminal section but he is also discharging the duties of Reader of the court and also looking after works pertaining to civil section. He is also adhering the directions given by the Presiding Officer with all sincerity and commitment. The reporting officer in para 9 of part-I of the Annual Performance Appraisal Report also treated performance of the petitioner as satisfactory. The reporting officer in part-II of the Annual Performance Appraisal Report also found the performance of the petitioner satisfactory in general and, therefore, also made a positive assertion with regard to integrity of the petitioner.

It is true that under some heads the Presiding Officer pointed out unsatisfactory

performance of the petitioner but at the same time the reporting officer in totality found performance of the petitioner as satisfactory as it is apparent from para 13 of the report concerned. In view of it in my considered opinion the performance of the petitioner was found satisfactory by the reporting officer and whatever entries made with regard to unsatisfactory work are only suggestive in nature. These entries cannot be treated adverse and on basis of those entries the selection grade for which the petitioner is entitled is not required to be stopped.

In view of factual position above this petition for writ is disposed of with the direction that the entries made in Annual Performance Appraisal Report of the petitioner for the year 1996 be treated as suggestive in nature and the petitioner be not denied for grant of selection grade on basis of entries in his APARs pertaining to the year 1996.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.